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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

n-80-12

SEP 25 1980

OFFICE OF ENFORCEMENT

MEMORANDUM

SUBJECT: Suspension of Consolidated Permit Regulation
Establishing Criteria for NPDES New Source
Determinations and Proposed Revision of the Regulation

TO: Regional Enforcement Division Directors
NPDES State Directors

FROM: Frank E. Hall, Director *F. E. Hall*
Permits Division (EN-336)

On September 9, 1980, two Federal Register notices were published; one suspending 40 CFR §122.66(b)(1) and (2), and the second, proposing a revision to that section. Copies of the notices are attached.

Section §122.66(b)(1) and (2) of the consolidated permit regulations contained criteria for distinguishing construction at a site of an existing water pollutant discharge that creates a new source from construction that merely modifies the existing source. The language of this regulation created confusion and raised questions about how the provision would actually operate. It was feared that the provision would classify too many plant alterations and expansions as new sources. Because of the confusion, we have decided to re-examine this regulation. The proposed revision is intended to avoid the difficulties in applying the criteria of §122.66(b)(1) and (2).

Pending promulgation of a final rule, permit writers are directed to use Appendix A to Subpart I, 40 CFR Part 6 (1979), Guidance on Determining a New Source (copy attached), as guidance for determinations otherwise controlled by §122.66(b) (1) and (2).

The public comment period on the proposed revision closes on October 24, 1980. Please send any written comment to Robert Brook, Permits Division (EN-336), EPA, 401 M Street, S.W. Washington, D. C. 20460. If you have questions, you may contact Robert Brook or Beth Osheim at 202-755-0750.

Attachments